



**LNG v BNO (Divorce Miscellaneous Cause 20 of 2021)  
[2022] KEHC 11033 (KLR) (25 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 11033 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
DIVORCE MISCELLANEOUS CAUSE 20 OF 2021**

**EKO OGOLA, J  
JULY 25, 2022**

**BETWEEN**

**LNG ..... APPLICANT**

**AND**

**BNO ..... RESPONDENT**

**RULING**

1. By way of Notice of Motion dated 28<sup>th</sup> October 2021 the applicant seeks the following orders;
  - 1) Spent
  - 2) The Honourable court recognizes and adopts the divorce decree given to the applicant and the Respondent herein in circuit court, family branch at the State of Wisconsin in the United States of America before the Judge of Circuit Court, Hon, Rod Smeltzer on the 28<sup>th</sup> of February 2018.
2. The application is based on the grounds contained therein and the supporting affidavit sworn by the Applicant.
3. The Applicant’s case is that the parties herein entered into a marriage under the laws of Kenya and the marriage was celebrated in Kenya on 4<sup>th</sup> August 2013. The Applicant relocated to the State of Wisconsin in the United States of America where she is currently resident. The marriage between the parties hit a rock and the applicant lodged Divorce Cause vide Case No. 17FA166 before the court at the State of Wisconsin seeking dissolution of the above marriage. The circuit court, family branch granted the divorce and issued a decree dissolving the marriage on 28<sup>th</sup> February 2018.
4. The Applicant herein wishes to have the above-mentioned decree to be duly recognized in Kenya being her home country to avoid any uncertainty on her marital status.



5. The Applicant sought leave to serve the Respondent herein vide substituted service which leave was granted by the Court on 20<sup>th</sup> December 2021 and the Applicant duly served the Respondent.
6. I note that the Applicant annexed a copy of the decree dissolving the marriage on 28<sup>th</sup> February 2018 as LNG-3. The same is annexed to the affidavit in support of the application.
7. Section 61 of the Marriage Act 2014 provides that:
  - (1) – “where a marriage celebrated in Kenya is annulled or dissolved by a decree of a foreign court, any party to the annulled or dissolved marriage may apply to the registrar to register the decree”.
8. The Application is further expressed to be brought under section 67 of the Marriage Act No. 24 of 2014 which states as follows:

Where a foreign court has granted a decree in matrimonial proceedings whether arising out of a marriage celebrated in Kenya or elsewhere, that decree shall be recognized in Kenya if—

  - (a) either party is domiciled in the country where that court has jurisdiction or had been ordinarily resident in Kenya for at least two years immediately preceding the date of institution of proceedings;
  - (b) Being a decree of annulment, divorce or separation, it is effective in the country of domicile of the parties or either of them.
9. It is therefore clear that under the Marriage Act 2014, foreign judgments annulling marriages or generally dealing with matrimonial proceedings are recognized in Kenya and the prayers herein are properly sought and therefore allowed in terms of prayer No. 2 to the effect that:
  - 1) This honourable court recognizes and adopts the divorce decree given to the applicant and the respondent herein in Circuit Court, Family Branch at the State of Wisconsin in the United States of America before the judge of Circuit Court, Hon, Rod Smeltzer on the 28<sup>th</sup> of February 2018.
  - 2) Costs shall be in the cause.

**DATED, SIGNED AND DELIVERED AT ELDORET THIS 25TH OF JULY 2022**

**E. K. OGOLA**

**JUDGE**

